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Attorneys for Defendant  
 City of Banning

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

MEGAN REEVES,

Plaintiff,

v.

RIVERSIDE COUNTY SHERIFF'S  
 DEPARTMENT, BANNING  
 POLICE DEPARTMENT.  
 BEAUMONT POLICE  
 DEPARTMENT. CITY OF  
 BANNING, CITY OF  
 BEAUMONT. DEPUTY JOHN  
 DOES #1 -8 (official and individual  
 capacities),

Defendants.

Case No.: 5:22-CV-02021-SB-MRW

**ANSWER OF DEFENDANT CITY  
 OF BANNING TO PLAINTIFF'S  
 COMPLAINT**

Judge: Stanley Blumenfeld, Jr.  
 Magistrate: Michael L. Wilner

Complaint filed: November 9, 2022  
 Trial Date: None set

Defendant City of Banning ("Defendant"), answers plaintiff's Complaint ("Complaint") as follows:

1. Answering Section I, paragraph A of the Complaint, Defendant does not have sufficient knowledge or information to admit or deny these allegations and on that basis deny.

2. Answering Section I, paragraph B of the Complaint, Defendant admits.

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1           3.     Answering Section II, paragraph B of the Complaint, Defendant avers  
2     that the allegations of said paragraph state a legal conclusion and do not contain  
3     any substantive or factual allegations against Defendants. Thus, no response is  
4     required. However, to the extent that this paragraph contains substantive or factual  
5     allegations, Defendant denies each and every allegation contained therein.

6           4.     Answering Section II, paragraph C of the Complaint, Defendant avers  
7     that the allegations of said paragraph state a legal conclusion and do not contain  
8     any substantive or factual allegations against Defendants. Thus, no response is  
9     required. However, to the extent that this paragraph contains substantive or factual  
10    allegations, Defendant denies each and every allegation contained therein.

11          5.     Answering Section II, paragraph D of the Complaint, Defendant avers  
12    that the allegations of said paragraph state a legal conclusion and do not contain  
13    any substantive or factual allegations against Defendants. Thus, no response is  
14    required. However, to the extent that this paragraph contains substantive or factual  
15    allegations, Defendant denies each and every allegation contained therein.

16          6.     Answering Section III, paragraph A of the Complaint, Defendant  
17    admits.

18          7.     Answering Section III, paragraph B of the Complaint, Defendant  
19    admits.

20          8.     Answering Section III, paragraph C of the Complaint, Defendant  
21    denies these allegations.

22          9.     Answering Section IV of the Complaint, Defendant denies these  
23    allegations and/or that plaintiff is entitled to any form of relief and/or damages.

24          10.    Answering Section V of the Complaint, Defendant denies these  
25    allegations and/or that plaintiff is entitled to any form of relief and/or damages.

26                   **AFFIRMATIVE DEFENSES**

27           As for separate and distinct affirmative defenses, Defendant alleges as  
28    follows:

1 **FIRST AFFIRMATIVE DEFENSE**

2 11. The Complaint fails to state a claim against the Defendant upon which  
3 relief may be granted.

4 **SECOND AFFIRMATIVE DEFENSE**

5 12. Any loss or damages sustained by plaintiff(s) were in whole or in part  
6 due to the acts or omission by plaintiff(s), and plaintiff(s)'s award, if any, should  
7 be reduced by his or her proportional share of negligence, fault, recklessness, or  
8 unlawful conduct.

9 **THIRD AFFIRMATIVE DEFENSE**

10 13. At all relevant times, the individual Defendants acted within their  
11 scope of discretion, with due care, and good faith fulfillment of responsibilities  
12 pursuant to the applicable statutes, rules and regulations within the bounds of  
13 reason, and with the good faith belief that their actions comported with al  
14 applicable federal and state laws. *Harlow v. Fitzgerald* 457 U.S. 800 (2007).  
15 *Saucier v. Katz* 533 U.S. 194 (2001).

16 **FOURTH AFFIRMATIVE DEFENSE**

17 14. Plaintiff failed to mitigate her damages and should be barred from  
18 recovery of such amounts.

19 **FIFTH AFFIRMATIVE DEFENSE**

20 15. Defendant alleges that if any damages were sustained by plaintiff, the  
21 damages were proximately caused by the acts and/or omission of others over  
22 whom defendant exercises no control and for whose acts the defendant are not  
23 responsible.

24 **SIXTH AFFIRMATIVE DEFENSE**

25 16. Defendant alleges that plaintiff's complaint fails to state facts  
26 sufficient to set forth a claim for punitive damages against the Defendant.

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1 **SEVENTH AFFIRMATIVE DEFENSE**

2 17. Defendant acted in good faith without malice, and upon a reasonable  
3 belief that their conduct was lawful and necessary.

4 **EIGHTH AFFIRMATIVE DEFENSE**

5 18. Defendant is not liable for injuries resulting from acts or omissions  
6 which were an exercise of their discretion.

7 **NINTH AFFIRMATIVE DEFENSE**

8 19. Defendants were acting on a good faith and reasonable belief that the  
9 acts complained of occurred within the scope of the Defendant officer's official  
10 duties and they had no knowledge that the alleged wrongful acts, if any, were  
11 illegal and/or unconstitutional nor were said alleged wrongful acts, if any, clearly  
12 a violation of plaintiff's rights at the time they were committed.

13 **TENTH AFFIRMATIVE DEFENSE**

14 20. Defendants allege that plaintiff has failed to bring this action in a  
15 timely manner and has otherwise failed to maintain this action within the  
16 applicable statute of limitations periods.

17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 21. Defendant City of Banning is not liable for plaintiffs' injuries or  
19 damages as its policies, customs and practices were constitutional, lawful,  
20 reasonable and/or not a direct or proximate cause of injury to plaintiff.

21 **TWELFTH AFFIRMATIVE DEFENSE**

22 22. Defendant is informed and believe that each and every act or omission  
23 of the Defendants were made or done in good faith and in the reasonable belief in  
24 the necessity or propriety of such act or omission for the proper execution and  
25 enforcement of the law and Defendants are not liable for any act or omission  
26 resulting from the use of due care in the execution or enforcement of the law.

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**THIRTEENTH AFFIRMATIVE DEFENSE**

23. Defendant alleges that plaintiff's claims are barred by the equitable doctrines of estoppel, laches and/or unclean hands.

**FOURTEENTH AFFRIMATIVE DEFENSE**

24. The police officers employed by this answering defendant are immune from liability base on qualified immunity because either they did not violate the Fourth Amendment rights of this plaintiff's decedent, or else the law was not clearly established.

**FIFTEENTH AFFRIMATIVE DEFENSE**

25. Defendant currently has insufficient knowledge or information upon which to determine whether additional affirmative defenses may be available to it which have not yet been asserted in this answer, and therefore reserve the right to assert additional affirmative defenses upon subsequent discovery, investigation, and analysis.

**PRAYER FOR RELIEF**

**WHEREFORE**, Defendant prays as follows:

1. That plaintiff takes nothing by her Complaint;
2. That Defendant be awarded its attorneys' fees and costs of suit;
3. That the sole liability of this Defendant, if any, be limited in proportion to the degree of fault attributable to the answering Defendant; and
4. For such other and further relief as the court deems just and proper.

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**DEMAND FOR JURY TRIAL**

**NOTICE IS HEREBY GIVEN** that Defendant City of Banning demands a jury trial in the above-entitled action pursuant to the provisions of Rule 38(b)(1) of the Federal Rules of Civil Procedure.

Dated: December 19, 2022

Dean Gazzo Roistacher LLP

By: /s/ Mitchell D. Dean

Mitchell D. Dean

Adrian M. Paris

Attorneys for Defendant

City of Banning

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